

Vreba-Hoff Dairy- June 2010 Update

Vreba-Hoff Dairy (Vreba-Hoff) is a large Concentrated Animal Feeding Operation (CAFO) located in Hudson, Michigan comprised of two dairies, Vreba-Hoff I and Vreba-Hoff II. Vreba-Hoff (like many CAFOs) stores liquid manure from the cows and other dairy wastes in large storage structures on-site and then applies the waste to fields. Vreba-Hoff has a long history of violations of water quality protection statutes and rules which has resulted in the degradation of several surface waters in the vicinity of the dairies. For the time period of July 2001 through August 2009, staff of the Department of Environmental Quality (DEQ) documented 49 separate discharges of Vreba-Hoff waste to surface waters of the state.

The DEQ negotiated a comprehensive Consent Judgment with Vreba-Hoff in 2004 to resolve violations alleged by the DEQ lawsuit filed in 2003 (and later amended in the spring of 2004). The Consent Judgment was later modified by a June 2007 Interim Order that arose from a civil contempt proceeding initiated by the DEQ in January 2007 as a result of Vreba-Hoff's failure to meet certain obligations under the original Consent Judgment, namely Vreba-Hoff's failure to effectively operate a waste treatment system installed pursuant to the original Consent Judgment.

The 2007 Interim Order allowed Vreba-Hoff to construct new waste treatment systems at both dairies, but bound Vreba-Hoff to firm standards for the concentration of pollutants that could be applied to cropland through controlled irrigation. Subsequent to the Interim Order, and construction of the new treatment systems, the DEQ issued a National Pollutant Discharge Elimination System (NPDES) permit to Vreba-Hoff that aligned with the treatment and land application requirements set forth in the Interim Order, while further restricting the allowable volume of waste effluent that could be irrigated. Vreba-Hoff challenged the DEQ's imposition of the volumetric limit, but that challenge has since been withdrawn.

Unfortunately, the new treatment systems (known as "EarthMentor") have failed to meet the concentration-based effluent limits set forth in both the Interim Order and NPDES permit. In December 2009, the DEQ filed a new lawsuit alleging new violations related to the irrigation of effluent that grossly exceeded permit limits. Those violations occurred throughout the 2008 and 2009 growing season. Vreba-Hoff has continued to irrigate wastewater in excess of permit limits in 2010, which has resulted in the Department of Natural Resources and Environment (DNRE, successor agency to the DEQ) filing a First Amended Complaint with the 30th Circuit Court sitting in Ingham County.

In addition to the new violations related to the on-going irrigation of wastewater exceeding permit limits, the Amended Complaint alleges that Vreba-Hoff is unlawfully depositing excess waste from the dairies into a waste storage structure located on Packard Road. The Interim Order required closure or procurement of a permit for this structure by February 2010. Vreba-Hoff has done neither and instead began hauling additional waste to the structure in May 2010.

While Judge Giddings had previously ordered the parties to mediation on the issues raised by the December 2009 lawsuit, the DNRE is hopeful that his honor will reconsider that order, grant immediate relief to local citizens affected by Vreba-Hoff's continuing pattern of violations, and allow the DNRE to present its case. The DNRE has aggressively pursued full compliance by Vreba-Hoff for many years. While citizens may express frustration that the dairies have not been "shut down," enforcement of environmental regulations is ultimately governed by judicial processes in place to protect the rights of all involved. The DNRE will continue to seek compliance by adhering to those established processes and presenting accurate and meaningful evidence to the Court. The herd size at the dairies has significantly decreased in the past year, dropping to approximately 3400 animals (combined).

In a separate dispute, Vreba-Hoff has agreed to finally commence payment of penalties owed to the state (\$180,000) under the terms of the Interim Order and will begin providing financial assurance in \$40,000 increments up to \$400,000 by August 22, 2010. This financial assurance was also a requirement of the Interim Order and is intended to assure, that in the event Vreba-Hoff is unable to meet its obligations for responsible waste management, the state would have access to funds in the event of an environmental emergency or abandonment of the properties.

Revised, July 19, 2010